

## REMARKS

### Status of the claims

Claims 1-12 are pending and claims 1-10 are under consideration in this application, claims 11 and 12 having been withdrawn for allegedly been drawn to a separate invention.

Claims 1 - 5 are rejected and claims 6 - 10 are allowable.

After entry of the amendments made herein, claims 1 -12 will be pending and claims 1-10 will be under consideration in this application.

### Priority

On January 21, 2004, Applicants filed: (a) a Preliminary Amendment replacing the priority statement that was in grandparent application U.S. Application Serial No. 08/378,617 (now U.S. Patent No. 5,849,991) with an updated priority statement that did not recite the relationships between all the applications listed in the statement; and (b) a transmittal letter containing a priority statement in which the relationships between all the applications listed are recited. Therefore, in light of the comments on page 3, lines 14-21, of the Office Action, the amendment to the priority statement presently in the instant application (see above) is timely filed.

### Specification

The descriptions of Figures 4, 5, 16, 26, and 27 have been amended (see above amendments to the specification) to include appropriate sequence identifiers. These amendments are supported by disclosure in the other parts of the instant specification (e.g., at page 67, line 23, to page 68, line 10; page 74, lines 4-11; page 129, lines 30-32; and page 129, lines 32-34) and thus do not add new matter. Applicants submit that, in light of these amendments, the comments on page 4, lines 1-2, of the Office Action are moot.

35 U.S.C. § 112, second paragraph, rejection

Claim 1 stands rejected on the grounds that the term "the DNA construct" in line 4 has insufficient antecedent basis. Applicants respectfully submit that the above amendment to claim 1 replacing the term "the" on line 4 with the term "a" renders the rejection moot.

35 U.S.C. § 112, first paragraph, rejection

Claims 1-5 stand rejected on the grounds that the specification does not enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to use the invention commensurate in scope with these claims.

From the comments on page 5, line 1, to page 8, line 22, of the Office Action, Applicants understand the Examiner's position to be that the specification is not enabling for generating a porcine cell containing at least one inactivated  $\alpha$ -1,3 galactosyltransferase gene in vivo. While not agreeing with this position, in order to expedite prosecution of the instant application, Applicants have amended claim 1 to specify that the DNA construct of the invention is introduced in vitro into porcine cells. Importantly in this regard, the Examiner acknowledges that the specification is "enabling for a method of generating a porcine cell comprising at least one inactivated alpha-1.3 galactosyltransferase gene in vitro" (page 5, lines 2- 3, of the Office Action; underlining added).

In light of the above considerations, Applicants respectfully submit that the rejection is moot.

Applicant : D'Apice et al.  
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CONCLUSION

Applicants submit that the pending claims patentably define the invention. Applicants request that the Examiner reconsider the rejections set forth in the Office Action, and permit the pending claims to pass to allowance.

If the Examiner would like to discuss any of the issues raised in the Office Action, Applicants' undersigned representative can be reached at the telephone number listed below.

Please apply any charges or credits to Deposit Account No. 06-1050, referencing Attorney Docket No. 07039-473003.

Respectfully submitted,

Date: 8/31/06

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